

2026:PHHC:062610



**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

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**CRA S-3175-SB-2011**

Date of Decision: 20.04.2026

Gurvinder Singh

...Appellants (s)

Vs.

State of Punjab

...Respondent(s)

**CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT**

Present : Mr. J.S. Bhatia, Advocate, for the appellant.

Mr. Bhanu Pratap Singh, Addl. A.G., Punjab.

**N.S.SHEKHAWAT, J. (Oral)**

1. The appellant has filed the present appeal against the impugned judgement of conviction and order of sentence dated 02.12..2011 passed by the Special Court, Patiala, whereby, the appellant was held guilty for the commission of offence punishable under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') and was sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs.1000/- alongwith default stipulation.

2. The brief facts of the prosecution case are that on 28.8.2009, SI Thura Ram, along with his police companions, in connection with patroll duty and checking of bad elements, had held *naka* at the twin road and were conducting checking of passers bye. There, Baldev Singh son of Mukhtiar Singh, had come. While SI Thura Ram, was engrossed in talk with Baldev Singh, then in the meanwhile,

one Hindu gentleman had come from the side of Devigarh, who, on seeing the police party, got perplexed and at once, tried to turn back. On suspicion, SI Thura Ram, with the help of his companions, intercepted the said person, who, on inquiry, disclosed his name as 'Gurvinder Singh' and also disclosed his other particulars. SI Thura Ram had then stated to Gurvinder Singh that he suspects him to be carrying some narcotic substance, for which, he intends to conduct his search. He also apprised Gurvinder Singh of the right to get the search conducted in the presence of some Gazetted Officer or Magistrate, who can be called at the spot. However, Gurvinder Singh, reposed confidence in SI Thura Ram and expressed his desire to get the search conducted from him, upon which, his consent memo was separately prepared. Thereafter, SI Thura Ram, conducted search of Gurvinder Singh, which led to the recovery of opium, wrapped in a glazed *lifafa*, from the right pocket of the jeans, which he was wearing. Two samples of 10 grams each were separated and residue opium, weighed to be 80 gms. Separate parcels of the samples and the residue opium were prepared and were sealed with the seal bearing impression "TR". Sample seal was separately prepared. All the aforesaid articles, along with sample seal, were taken into possession vide recovery memo. *Ruqa* was sent to the police station, on the basis whereof, case was registered against accused. Various other proceedings were conducted at the spot. On return to the police station, accused and the case property were produced before In-charge SHO/SI Mohinder Singh, who verified the factum of recovery and counter sealed the parcels and the sample seal, with his seal bearing impression 'MS'

and then deposited the case property with MHC. On the next day, accused and the case property were produced before the Magistrate and thereafter, the case property was deposited in Judicial *Malkhana* as per directions given by the Magistrate. During the course of investigation, one sample parcel was sent to the office of the Chemical Examiner and the latter, vide its report, opined the contents of the sample to be 'opium'.

3. After the presentation of the *challan*, the trial Court found that a *prima facie* case under Section 18 of the NDPS Act was made out against the appellant and he was charge-sheeted accordingly. However, the appellant pleaded not guilty and claimed trial.

4. In support of the prosecution case, the prosecution examined five witnesses, namely, SI Mohinder Singh as PW1, HC Chet Ram as PW2, SI Thura Ram as PW3, ASI Kewal Singh as PW4 and MHC Harminder Singh as PW5 and, thereafter, the prosecution evidence was closed.

5. After recording of the prosecution evidence, the statement of the appellant was recorded under Section 313 Cr.P.C. and the entire incriminating evidence appearing against him was put to him. However, he pleaded that he had been falsely implicated in the present case.

6. In his defence, the appellant examined DW1 Sukhwinder Singh, Civil Ahlmad, who produced the record of a civil suit titled “*Jagdish Singh and others Vs Amrik Singh and others*” and brought on record the certified copy of the plaint as Ex.DW1/A. The appellant also examined DW2 HC Gurmit Singh of Police Station Sadar, Patiala, who produced the DDR register and proved the relevant entry as Ex.DW2/A.

7. At the very outset, learned counsel for the appellant submits that he does not wish to challenge the judgments of conviction passed against the appellant by trial Court, however, some leniency may be shown while awarding the sentence to him. Even though, learned counsel for the appellant has not challenged the judgment of conviction, still, this Court has considered the case on merits.

8. Learned State counsel submits that the appellant does not deserve the concession regarding sentence and the present appeal be dismissed.

9. I have heard learned counsel for the parties and perused the record carefully.

10. In the present case, the prosecution examined PW1 SI Mohinder Singh, SHO, of the police station, where the case property was produced. He sealed the samples and deposited the case property with the MHC. The prosecution further examined PW2 HC Chet Ram who tendered his affidavit Ex. PA. PW5 MHC Harminder Singh tendered his affidavit Ex. PJ in the present case. Both PW2 HC Chet Ram and PW5 Harminder Singh had deposed with regard to the safe custody of the case property in *Malkhana* as well as during the transit to the office of the chemical examiner. The prosecution further examined PW5 SI Kewal Singh, who was present during the process of recovery. He also acted as a attesting witness and fully supported the case of the prosecution. The statement of PW4 ASI Kewal Singh finds corroboration from the statement of PW3 SI Thura Ram, who was the investigating officer of the present case. He deposed with regard to the

search and recovery of the contraband from the petitioner. He also deposed with regard to the drawing of samples, preparation of samples and to prepare the samples of the residue of opium recovered from the present appellant. From the statements of aforementioned witnesses, it is apparent that the present appellant was keeping in his conscious possession 100 grams of opium and the charge amply stood proved against him. Even the trial Court has recorded detailed findings to show that all the mandatory provisions of the NDPS Act regarding search, seizure and sending of parcels to the chemical examiner were followed by the IO of the present case. Even otherwise, I have carefully gone through the judgment passed by the learned trial Court and find that the same does not suffer from any infirmity, illegality, or perversity. Accordingly, the impugned judgment of conviction is ordered to be upheld.

11. Now, advertent to the order on quantum of sentence, this Court cannot lose sight of the fact that the appellant is facing the agony of trial since 28.08.2009, i.e., for the last more than 16 years. Even the appellant was sentenced to undergo rigorous imprisonment for a period of six months and as per his custody certificate, the appellant has already undergone 02 months and 21 days of actual custody in the present case. Apart from that, he is first-time offender and was never involved in any other crime. Even, the sentence imposed on the appellant was suspended by this Court on 13.01.2012 and in the past more than 14 years, he has maintained good conduct. Consequently, keeping in view the aforesaid

mitigating circumstances, the sentence imposed on him is reduced to the period already undergone by him.

12. With the above modifications, the present appeal is partly allowed and the impugned judgement of conviction and order of sentence dated 02.12..2011 passed by the Special Court, Patiala, is upheld, whereas, the sentence imposed on the appellant is reduced to the period already undergone by him. However, the amount of fine imposed on them shall remain same.

13. The case property, if any, may be dealt with as per the rules.

14. Pending applications, if any, stand also disposed of, accordingly.

20.04.2026  
amit rana

(N.S.SHEKHAWAT)  
JUDGE

|                           |   |        |
|---------------------------|---|--------|
| Whether reasoned/speaking | : | Yes/No |
| Whether reportable        | : | Yes/No |